Employee Retention Credit (ERC)

The new stimulus package passed by Congress and signed into law on December 27th brings a fresh batch of funds to many businesses in need while creating a slew of additional questions. The team members at Pease, CPAs are fielding many questions regarding the Employee Retention Credit (ERC). Questions have centered around eligibility, how to apply, and the interaction of the credit with Paycheck Protection Program (PPP) loan forgiveness and the tax credits created by the Families First Coronavirus Response Act (FFCRA). Pease, CPAs endeavors to provide clarity where possible. If the below summary does not address your concerns you can schedule a meeting with Chuck Fenske (cfenske@peasecapital.com) or Rich Mazzola (rmazzola@peasecpa.com) for further assistance.

ERC 2021 Updates Summary

- The ERC has been extended to June 30, 2021.
- The eligibility requirement for gross receipts reduction has been reduced to a 20% reduction threshold vs. 50% reduction threshold in 2020.
- The eligibility requirement for full time employees has been increased to 500 or less from 100 or less in 2020.
- The credit in 2021 has been increased to 70% of qualified wages vs. 50% of qualified wages in 2020.
- The credit can be claimed each **quarter** for each employee up to $10,000 ($7,000 credit) of qualified wages in 2021 vs. $10,000 ($5,000 credit) of qualified wages in 2020.
- PPP Borrowers under PPP1 and PPP2 can now claim the credit.
- Employers not in existence in 2019 can now claim the credit.

Eligibility

- 2021
    - Under 500 full-time employees in 2019, **AND;**
            - Note: a full-time employee is defined under Internal Revenue Code (IRC) section 4980H, employed an average of 30 hours per week or 130 hours per month.
        - Partial/full shut down from government order, **OR;**
        - Gross receipts reduced by 20% or more comparing the 2021 quarter to the same quarter in 2019.
- 2020
    - Under 100 full-time employees in 2019, **AND**;
            - Note: a full-time employee is defined under IRC section 4980H, employed an average of 30 hours per week or 130 hours per month.
        - Partial/full shut down from government order, **OR**;
        - Gross receipts reduced by 50% or more comparing the 2020 quarter to the same quarter in 2019.

- For companies over the full-time employee requirement, a company can still be eligible to receive the ERC as long the following requirements are met:
  - Paid for employees that did not work during the qualified period defined below, **AND**;
    - Partial Partial/full shut down from government order, **OR**;
    - Gross receipts reduced by 50%/20% or more comparing the 2020/2021 quarter to the same quarter in 2019.

Qualified Amounts

- Qualified amounts defined:
  - Gross wages subject to Social Security
  - Allocable group health benefits to the employees
- Determining the amount under each eligibility requirement
  - Partial/Full Shut Down
    - The amount of qualified wages and allocable health benefits is limited to the date range in which the partial or full shut down was in effect.
  - Gross Receipts Reduction
    - The amount of qualified wages and allocable health benefits includes all qualified amounts in the quarter in which the revenue is reduced by the threshold and continues until the day after the quarter the company's reduction is no longer in the eligibility percentage.
  - Credit Calculation
    - For qualified amounts in 2021, the credit allowed is 70% of the amount calculated.
    - For qualified amounts in 2020, the credit allowed is 50% of the amount calculated.

Claiming the Credit

- 2021 ERC Options
  - A company can file form 7200 to advance the credits and then note the amount on the quarterly filing of the form 941.
  - A company can reduce payroll tax deposits and claim the credit at the end of the quarter on their form 941.
- 2020 ERC Options
  - If the company previously claimed the ERC, they can amend the form 941 in the quarter that required adjustment.
  - If the company did not previously file for the ERC, they can amend the 4th quarter form 941 for eligible amounts in 2020.
    - Note, this is the best option for PPP1 borrowers now looking to claim the credit.

Interaction with the PPP and FFCRA tax credits

- The Internal Revenue Service (IRS) has made it clear that wages used for PPP forgiveness and FFCRA tax credits cannot be used again for ERC. (i.e. no double dipping).
- When filing for PPP forgiveness, companies should use other approved expenses (i.e. rent, utilities, software costs, etc.) up to the maximum allowed to allow eligible wages to be available to use for FFCRA/ERC, assuming the eligibility requirements for those incentives are met.

We will be providing updates as they occur so please continue to monitor our Economic Relief Resource center (https://www.peasecpa.com/covid-19-resourcecenter/) for the latest developing information.